

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## SENATE ENROLLED ACT No. 551

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AN ACT to amend the Indiana Code concerning environmental law.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 5-1.5-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. "Qualified entity" means:

- (1) a political subdivision (as defined in IC 36-1-2-13);
- (2) a state educational institution (as defined in IC 20-12-0.5-1(b));
- (3) a leasing body (as defined in IC 5-1-1-1(a));
- (4) a not-for-profit utility (as defined in IC 8-1-2-125);
- (5) any rural electric membership corporation organized under IC 8-1-13;
- (6) any corporation that was organized in 1963 under Acts 1935, c. 157 and that engages in the generation and transmission of electric energy;
- (7) any telephone cooperative corporation formed under IC 8-1-17;
- (8) any commission, authority, or authorized body of any qualified entity;
- (9) any organization, association, or trust with members, participants, or beneficiaries that are all individually qualified

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entities; ~~or~~

(10) any commission, authority, or instrumentality of the state; **or**

**(11) any other participant (as defined in IC 13-11-2-151.1).**

SECTION 2. IC 5-1.5-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) The bank may issue its bonds or notes in principal amounts that it considers necessary to provide funds for any purposes under this article, including:

- (1) the purchase or acquisition of securities;
- (2) the making of loans to or agreements with qualified entities through the purchase of securities;
- (3) the payment, funding, or refunding of the principal of, or interest or redemption premiums on, bonds or notes issued by it whether the bonds or notes or interest to be paid, funded, or refunded have or have not become due; and
- (4) the establishment or increase of reserves to secure or to pay bonds or notes or interest on bonds or notes and all other costs or expenses of the bank incident to and necessary or convenient to carry out its corporate purposes and powers.

(b) Except as otherwise provided in this article or by the board, every issue of bonds or notes shall be general obligations of the bank payable out of the revenues or funds of the bank, subject only to agreements with the holders of a particular series of bonds or notes pledging a particular revenue or fund. Bonds or notes may be additionally secured by a pledge of a grant or contributions from the United States, a qualified entity, or a person or a pledge of income or revenues, funds, or money of the bank from any source.

(c) Notwithstanding subsections (a) and (b), the total amount of bank bonds and notes outstanding at any one (1) time, except:

- (1) bonds or notes issued to fund or refund bonds or notes; and
- (2) bonds or notes issued for the purpose of purchasing an agreement executed by a qualified entity under IC 21-1-5;

may not exceed one billion dollars (\$1,000,000,000) for qualified entities described in IC 5-1.5-1-8(1) through IC 5-1.5-1-8(4) and IC 5-1.5-1-8(8) through ~~IC 5-1.5-1-8(10)~~. **IC 5-1.5-1-8(11).**

(d) Notwithstanding subsections (a) and (b), the total amount of bank bonds and notes outstanding at any one (1) time, except bonds or notes issued to fund or refund bonds or notes, may not exceed two hundred million dollars (\$200,000,000) for qualified entities described in IC 5-1.5-1-8(5) through IC 5-1.5-1-8(6).

(e) Notwithstanding subsections (a) and (b), the total amount of bank bonds and notes outstanding at any one (1) time, except bonds or notes issued to fund or refund bonds or notes, may not exceed thirty

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million dollars (\$30,000,000) for qualified entities described in IC 5-1.5-1-8(7).

(f) The limitations contained in subsections (c), (d), and (e) do not apply to bonds, notes, or other obligations of the bank if:

- (1) the bonds, notes, or other obligations are not secured by a reserve fund under IC 5-1.5-5; or
- (2) funds and investments, and the anticipated earned interest on those funds and investments, are irrevocably set aside in amounts sufficient to pay the principal, interest, and premium on the bonds, notes, or obligations at their respective maturities or on the date or dates fixed for redemption.

SECTION 3. IC 5-1.5-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Bonds or notes of the bank must be authorized by resolution of the board, may be issued in one (1) or more series, and must:

- (1) bear the date;
- (2) mature at the time or times;
- (3) be in the denomination;
- (4) be in the form;
- (5) carry the conversion or registration privileges;
- (6) have the rank or priority;
- (7) be executed in the manner;
- (8) be payable from the sources in the medium of payment at the place inside or outside the state; and
- (9) be subject to the terms of redemption;

as the resolution of the board or the trust agreement securing the bonds or notes provides.

(b) Except as provided in subsection (e), bonds or notes may be issued under this article without obtaining the consent of any agency of the state and without any other proceeding or condition other than the proceedings or conditions specified in this article.

(c) The rate or rates of interest on the bonds or notes may be fixed or variable. Variable rates shall be determined in the manner and in accordance with the procedures set forth in the resolution authorizing the issuance of the bonds or notes. Bonds or notes bearing a variable rate of interest may be converted to bonds or notes bearing a fixed rate or rates of interest, and bonds or notes bearing a fixed rate or rates of interest may be converted to bonds or notes bearing a variable rate of interest, to the extent and in the manner set forth in the resolution pursuant to which the bonds or notes are issued. The interest on bonds or notes may be payable semiannually or annually or at any other interval or intervals as may be provided in the resolution, or the interest

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may be compounded and paid at maturity or at any other times as may be specified in the resolution.

(d) The bonds or notes may be made subject, at the option of the holders, to mandatory redemption by the bank at the times and under the circumstances set forth in the authorizing resolution.

(e) The bank may not issue bonds for qualified entities described in IC 5-1.5-1-8(5) through IC 5-1.5-1-8(7) **or IC 5-1.5-1-8(11)** that are subject to the volume cap (as defined in IC 4-4-11.5-14) without obtaining the prior approval of the Indiana development finance authority.

SECTION 4. IC 13-11-2-83 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 83. (a) "Financial assistance agreement", for purposes of IC 13-18-13, ~~and IC 13-18-21~~, refers to an agreement ~~among~~ **between**:

- (1) the budget agency; and
- (2) a political subdivision;

establishing the terms and conditions of a loan or other financial assistance, including forgiveness of principal if allowed under federal law, by the state to the political subdivision.

(b) "Financial assistance agreement", for purposes of IC 13-19-5, means an agreement between the authority and a political subdivision that:

- (1) is approved by the budget agency; and
- (2) establishes the terms and conditions of a loan or other financial assistance by the state to the political subdivision.

(c) **"Financial assistance agreement", for purposes of IC 13-18-21, refers to an agreement between:**

- (1) the budget agency; and**
- (2) a participant;**

**establishing the terms and conditions of a loan or other financial assistance, including forgiveness of principal if allowed under federal law, by the state to the participant.**

SECTION 5. IC 13-11-2-87 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 87. (a) "Fund", for purposes of IC 13-14-12, refers to the environmental management special fund.

(b) "Fund", for purposes of IC 13-15-10, refers to the waste facility operator trust fund.

(c) "Fund", for purposes of IC 13-15-11, refers to the environmental management permit operation fund.

(d) "Fund", for purposes of IC 13-17-6, refers to the asbestos trust fund.



(e) "Fund", for purposes of IC 13-17-8, refers to the Title V operating permit program trust fund.

(f) "Fund", for purposes of IC 13-17-14, refers to the lead trust fund.

(g) "Fund", for purposes of IC 13-18-8-5, refers to a sanitary fund.

(h) "Fund", for purposes of IC 13-18-13, refers to the wastewater revolving loan fund established by IC 13-18-13-2. ~~The term does not include the supplemental fund established by IC 13-18-13-22.~~

(i) "Fund", for purposes of IC 13-18-21, refers to the drinking water revolving loan fund established by IC 13-18-21-2. The term does not include the supplemental fund established by IC 13-18-21-22.

(j) "Fund", for purposes of IC 13-19-5, refers to the environmental remediation revolving loan fund established by IC 13-19-5-2.

(k) "Fund", for purposes of IC 13-20-4, refers to the municipal waste transportation fund.

(l) "Fund", for purposes of IC 13-20-13, refers to the waste tire management fund.

(m) "Fund", for purposes of IC 13-20-22, refers to the state solid waste management fund.

(n) "Fund", for purposes of IC 13-21-7, refers to the waste management district bond fund.

(o) "Fund", for purposes of IC 13-21-13-2, refers to a district solid waste management fund.

(p) "Fund", for purposes of IC 13-23-6, refers to the underground petroleum storage tank trust fund.

(q) "Fund", for purposes of IC 13-23-7, refers to the underground petroleum storage tank excess liability fund.

(r) "Fund", for purposes of IC 13-23-10, refers to the underground storage tank guaranty fund.

(s) "Fund", for purposes of IC 13-25-4, refers to the hazardous substances response trust fund.

(t) "Fund", for purposes of IC 13-25-5, refers to the voluntary remediation fund.

(u) "Fund", for purposes of IC 13-28-2, refers to the voluntary compliance fund.

SECTION 6. IC 13-11-2-151.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 151.1. "Participant", for purposes of this chapter and IC 13-18-21, means:**

**(1) a political subdivision; or**

**(2) any other owner or operator of a public water system.**

SECTION 7. IC 13-11-2-172 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 172. (a) "Program", for



purposes of IC 13-18-13, refers to the wastewater revolving loan program established by IC 13-18-13-1. ~~The term does not include the supplemental program.~~

(b) "Program", for purposes of IC 13-18-21, refers to the drinking water revolving loan program established by IC 13-18-21-1. The term does not include the supplemental program.

(c) "Program", for purposes of IC 13-19-5, refers to the environmental remediation revolving loan program established by IC 13-19-5-1.

(d) "Program", for purposes of IC 13-23, refers to an underground storage tank release:

- (1) detection;
- (2) prevention; and
- (3) correction;

program created in accordance with the requirements of IC 13-23 or IC 13-7-20 (before its repeal).

SECTION 8. IC 13-11-2-177.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 177.3. "Public water system", for purposes of ~~IC 13-18-21-22 through IC 13-18-21-29~~, means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances that:

- (1) has at least fifteen (15) service connections; or
- (2) regularly serves at least twenty-five (25) individuals.

**this chapter and IC 13-18-21, has the meaning set forth in 42 U.S.C. 300f.**

SECTION 9. IC 13-11-2-226 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 226. (a) "Supplemental fund", for purposes of IC 13-18-13 **and IC 13-18-21**, refers to the supplemental **drinking water and** wastewater assistance fund established by ~~IC 13-18-13-22~~.

(b) "Supplemental fund", for purposes of ~~IC 13-18-21~~, refers to the ~~supplemental drinking water assistance fund established by IC 13-18-21-22~~.

SECTION 10. IC 13-11-2-227 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 227. (a) "Supplemental program", for purposes of IC 13-18-13 **and IC 13-18-21**, refers to the supplemental **drinking water and** wastewater assistance program established by ~~IC 13-18-13-21~~.

(b) "Supplemental program", for purposes of ~~IC 13-18-21~~, refers to the ~~supplemental drinking water assistance program established by IC 13-18-21-21~~.

SECTION 11. IC 13-18-21-2 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The drinking water revolving loan fund is established to provide money for loans and other financial assistance under this chapter to or for the benefit of ~~political subdivisions, participants~~, including forgiveness of principal if allowed under federal law.

(b) The general assembly may appropriate money to the fund. Grants or gifts of money to the fund from the federal government or other sources and the proceeds of the sale of:

- (1) gifts to the fund; and
- (2) loans and other financial assistance, as provided in sections 10 through 14 of this chapter;

shall be deposited in the fund.

(c) Repayments of loans and other financial assistance, including interest, premiums, and penalties, shall be deposited in the fund.

(d) The treasurer of state shall invest the money in the fund that is:

- (1) not currently needed to meet the obligations of the fund; and
- (2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from these investments shall be deposited in the fund.

(e) As an alternative to subsection (d), the budget agency may invest or cause to be invested all or part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, an investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may allow disbursements by the trustee to:

- (1) the department;
- (2) the budget agency;
- (3) a ~~political subdivision~~ **participant**;
- (4) the Indiana bond bank; or
- (5) any person to which the department, the budget agency, or a ~~political subdivision~~ **participant** is obligated, as provided in the trust agreement or indenture.

The state board of finance must approve any trust agreement or indenture before execution.

(f) Except as provided in the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), the cost of administering the fund and the program may be paid from the fund or from four percent (4%) of the money allotted to the state under 42 U.S.C. 300j-12.

(g) All money accruing to the fund and money allotted to the state under 42 U.S.C. 300j-12 is appropriated continuously for the purposes specified in this chapter.

(h) Money in the fund does not revert to the state general fund at the



end of a state fiscal year.

SECTION 12. IC 13-18-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) Money in the fund may be used to do the following:

(1) Provide loans or other financial assistance to ~~political subdivisions~~ **participants** for the:

- (A) planning;
- (B) designing;
- (C) construction;
- (D) renovation;
- (E) improvement;
- (F) expansion; or
- (G) any combination of clauses (A) through (F);

for ~~drinking public~~ water systems that will facilitate compliance with national primary drinking water regulations applicable to ~~drinking public~~ water systems under the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) or otherwise significantly further the health protection objectives of the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) and other activities necessary or convenient to complete these tasks.

(2) Except as provided in the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), pay the cost of administering the fund and the program.

(3) Conduct all other activities that are allowed by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(b) Notwithstanding section 2(g) of this chapter, if ~~appropriated by the general assembly and~~ an adequate state match is available, the department and the budget agency shall use two percent (2%) of the funds allotted to the state under 42 U.S.C. 300j-12 to provide technical assistance to ~~political subdivisions~~ **participants for public water systems** serving not more than ten thousand (10,000) persons in Indiana. The department and the budget agency may jointly contract with a person or persons to provide the technical assistance. Funds used under this subsection may not be used for enforcement actions.

(c) To the extent permitted by this chapter, fifteen percent (15%) of the amount credited to the fund in a state fiscal year shall be available solely for providing loan assistance to **participants for public water systems** as ~~contemplated by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.); that~~ regularly ~~serve~~ **serving** less than ten thousand (10,000) persons in Indiana, to the extent that the money can be obligated for eligible projects of ~~public water systems under the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).~~





(d) To avoid the loss of money allotted to the state under 42 U.S.C. 300j-12 et seq., the budget agency and the department shall develop and implement a strategy to assist ~~public water systems~~ **participants** in acquiring and maintaining technical, managerial, and financial capacity as contemplated by 42 U.S.C. 300g-9. This is all the legal authority required by the state for the budget agency and the department to ensure that all new community water systems and new nontransient, noncommunity water systems, as contemplated by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), commencing operations after October 1, 1999, demonstrate technical, managerial, and financial capacity with respect to each federal primary drinking water regulation in effect on the date operations commence. The department has primary responsibility to carry out this subsection.

**(e) This chapter does not require the budget agency to provide a loan or other financial assistance to any participant that would cause any bonds or other obligations issued to finance the program to lose their exemption from federal income taxation.**

SECTION 13. IC 13-18-21-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. The budget agency shall do the following:

- (1) Manage and implement the financial aspects of the program.
- (2) Cooperate with the department in the administration and management of the program.
- (3) If not accepted and held by the department, accept and hold any letter of credit from the federal government through which the state receives grant payments for the program and disbursements to the fund.
- (4) Be the point of contact with ~~political subdivisions,~~ **participants** and other interested persons in preparing and providing program information.
- (5) Negotiate, jointly with the department, the negotiable aspects of each financial assistance agreement.
- (6) Prepare or cause to be prepared each financial assistance agreement.
- (7) Execute each financial assistance agreement.
- (8) Conduct or cause to be conducted an evaluation as to the financial ability of each ~~political subdivision~~ **participant** to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement.
- (9) Prepare, jointly with the department, annual reports concerning the fund and the program.



(10) Submit the reports prepared under subdivision (9) to the governor and the general assembly.

(11) Enter into memoranda of understanding with the department concerning the administration and management of the fund and the program.

SECTION 14. IC 13-18-21-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) The department and the budget agency may:

(1) provide services to a ~~political subdivision~~ **participant** in connection with a loan or other financial assistance, including advisory and other services; and

(2) charge a fee for services provided.

(b) The department and the budget agency may charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance under this chapter to or for the benefit of a ~~political subdivision~~ **participant**, regardless of whether the application is approved or rejected.

(c) A political subdivision may pay fees charged under this section.

SECTION 15. IC 13-18-21-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. (a) The department shall use a priority ranking system to recommend loans or other financial assistance from the fund. The department shall develop the priority ranking system consistent with federal primary drinking water regulations and health protection objectives of the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(b) Based on the recommendations made under subsection (a), the budget agency may make loans and provide other financial assistance from the fund to or for the benefit of ~~political subdivisions~~ **participants**.

SECTION 16. IC 13-18-21-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. The budget agency may make loans or provide other financial assistance from the fund to or for the benefit of a ~~political subdivision~~ **participant** under the following conditions:

(1) The loan or other financial assistance must be used:

(A) for planning, designing, constructing, renovating, improving, and expanding ~~drinking public~~ **water treatment** systems and for other activities necessary or convenient to complete these tasks;

(B) to:

- (i) establish reserves or sinking funds; or
- (ii) provide interest subsidies;



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(C) to pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction; or

(D) to pay the following:

(i) Consultant, advisory, and legal fees.

(ii) Other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program.

(2) Subject to section 15 of this chapter, upon recommendation of the budget agency, the state board of finance shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.

(3) The budget agency shall establish the terms and conditions that the budget agency considers necessary or convenient to:

(A) make loans; or

(B) provide other financial assistance under this chapter.

**(4) Notwithstanding any other law, the budget agency may establish and implement requirements that:**

**(A) apply to loans and other financial assistance to be made to participants that are not political subdivisions; and**

**(B) are different from, or in addition to, requirements that apply to loans and financial assistance made to political subdivisions.**

SECTION 17. IC 13-18-21-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. A ~~political subdivision~~ **participant** receiving a loan or other financial assistance from the fund shall enter into a financial assistance agreement. A financial assistance agreement is a valid, binding, and enforceable agreement of the ~~political subdivision~~ **participant**.

SECTION 18. IC 13-18-21-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. The budget agency may sell loans or evidence of other financial assistance and other obligations of ~~political subdivisions~~ **participants** evidencing the loans or other financial assistance from the fund periodically at any price and on terms acceptable to the budget agency. Proceeds of sales under this section shall be deposited in the fund.

SECTION 19. IC 13-18-21-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. (a) The budget agency may pledge loans or evidence of other financial assistance and other obligations of ~~political subdivisions~~ **participants** evidencing the



loans or other financial assistance from the fund to secure:

(1) other loans or financial assistance from the fund to or for the benefit of ~~political subdivisions~~ **participants**; or

(2) other loans or financial assistance from the supplemental fund to or for the benefit of ~~political subdivisions~~ **participants**; to the extent allowed by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(b) The budget agency must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made under this section is binding from the time the pledge is made. Revenues, other money, or other property pledged and received are immediately subject to the lien of the pledge without any other act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

- (1) the department;
- (2) the budget agency; or
- (3) the fund;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the budget agency.

(e) Action taken to:

- (1) enforce a pledge under this section; and
- (2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section does not create a liability or indebtedness of the state.

SECTION 20. IC 13-18-21-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. (a) In recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan (other than a loan to a qualified entity described in IC 13-11-2-164(b)(4)), as provided in section 10 of this chapter, the budget agency shall recommend and the state board of finance shall establish the following:

(1) A base or subsidized interest rate that:

(A) would be payable by ~~political subdivisions~~ **participants** other than ~~political subdivisions~~ **participants** described in subdivision (2) or (3); and

(B) may provide that payment of interest is not required during all or part of the estimated construction period for the ~~drinking~~ **public water treatment** system.



(2) A base reduced or more heavily subsidized interest rate that:  
 (A) is payable by a ~~political subdivision~~ **participant** with median household incomes that are:

- (i) not more than the state median household income for an area that is not a metropolitan area, as determined and reported periodically by the federal government; and
- (ii) not less than eighty-one percent (81%) of the state median household income for an area that is not a metropolitan area; and

(B) may provide that payment of interest is not required during all or part of the estimated construction period for the ~~drinking~~ **public water treatment** system.

(3) A base of zero (0) or the most heavily subsidized interest rate that:

(A) would be payable on loans made to ~~political subdivisions~~ **participants** with median household incomes that are not more than eighty percent (80%) of the state household income for an area that is not a metropolitan area; and

(B) may provide that payment of interest is not required during all or part of the estimated construction period of the ~~drinking~~ **public water treatment** system.

(b) The budget agency, in recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan (including ~~all~~ **participants that are not political subdivisions**) under section 10 of this chapter, ~~shall~~ **may** take into account the following:

- (1) Credit risk.
- (2) Environmental, water quality, and health protection.
- (3) Affordability.
- (4) Other fiscal factors the budget agency considers relevant, **including the program's cost of funds and whether the financial assistance provided to a particular participant is taxable or tax exempt under federal law.**

**Based on the factors set forth in subdivisions (1) through (4), more than one (1) interest rate may be established and used for loans made to different participants in the same interest rate category.**

(c) In financing the program, the Indiana bond bank and the Indiana development finance authority shall issue at the budget agency's request:

- (1) revenue bonds payable from and secured by ~~political subdivisions~~ **participants**; and



(2) loan payments made by and to ~~political subdivisions~~  
**participants.**

The budget agency or the state board of finance ~~are~~ **is** not required by this chapter to establish interest rates on loans or parameters for establishing interest rates that would cause any revenue bonds to be insecure or otherwise negatively affect the ability of the state to continue to finance the program.

SECTION 21. IC 13-18-21-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. The budget agency shall require a ~~political subdivision~~ **participant** receiving a loan or other financial assistance under this chapter to establish under applicable law and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the ~~political subdivision~~ **participant** to:

- (1) operate and maintain the ~~drinking public~~ water ~~treatment~~ system; and
- (2) pay the obligations of the ~~drinking public~~ water ~~treatment~~ system.

SECTION 22. IC 13-18-21-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. (a) Notwithstanding any other law and if provided in a financial assistance agreement, a state department or state agency, including the treasurer of state, that is the custodian of money payable to a ~~political subdivision~~ **participant**, other than money in payment for goods or services provided by the ~~political subdivision~~ **participant**, may withhold payment of money from that ~~political subdivision~~ **participant** and pay over the money to the budget agency or the Indiana bond bank, as directed by the budget director, for the purpose of curing a default. Withholding payment under this subsection may not occur until after written notice from the budget director that the ~~political subdivision~~ **participant** is in default on the payment of principal or interest on a loan or evidence of other financial assistance.

(b) The withholding of payment from the ~~political subdivision~~ **participant** and payment to:

- (1) the budget agency; or
- (2) the Indiana bond bank;

as applicable, may not adversely affect the validity of the defaulted loan or other financial assistance.

SECTION 23. IC 13-18-21-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. (a) As an alternative to making loans or providing other financial assistance to ~~political subdivisions~~ **participants**, the budget agency may use the

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money in the fund to provide a leveraged loan program and other financial assistance programs allowed by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) to or for the benefit of ~~political subdivisions~~ **participants**, including using money in the fund or a supplemental fund, including the supplemental fund established by section ~~21~~ **22** of this chapter, to enhance the obligations of ~~political subdivisions~~ **participants** issued for the purposes of this chapter by:

- (1) granting money to:
  - (A) be deposited in:
    - (i) a capital or reserve fund established under IC 5-1.5 or another statute or a trust agreement or indenture as contemplated by IC 13-18-21-2(e); or
    - (ii) an account established within a fund described in item (i); or
  - (B) provide interest subsidies;
- (2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a ~~political subdivision~~ **participant** or for bonds issued by the Indiana bond bank or the Indiana development finance authority if credit market access is improved or interest rates are reduced; or
- (3) guaranteeing all or part of:
  - (A) obligations issued by ~~political subdivisions~~ **participants**;
  - or
  - (B) bonds issued by the Indiana bond bank or the Indiana development finance authority.

(b) The budget agency may enter into any agreements with the Indiana bond bank, the Indiana development finance authority, or ~~political subdivisions~~ **participants** to carry out the purposes specified in this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.

SECTION 24. IC 13-18-21-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 21. The supplemental drinking water **and wastewater** assistance program is established.

SECTION 25. IC 13-18-21-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 22. (a) The supplemental drinking water **and wastewater** assistance fund is established to provide money for grants, loans, and other financial assistance **to or** for the benefit of: ~~political subdivisions~~ **or public water**

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systems that serve economically disadvantaged municipalities

**(1) participants for the purposes described in section 23(1) of this chapter; and**

**(2) political subdivisions for the purposes described in section 23(2) of this chapter.**

(b) The general assembly may appropriate money to the supplemental fund. Grants or gifts of money to the supplemental fund and proceeds of the sale of:

(1) gifts to the supplemental fund; and

(2) loans and other financial assistance, as provided in sections 25 through 29 of this chapter;

shall be deposited in the supplemental fund.

(c) Repayments of loans and other financial assistance from the supplemental fund, including interest, premiums, and penalties, shall be deposited in the supplemental fund.

(d) The treasurer of state shall invest the money in the supplemental fund that is:

(1) not currently needed to meet the obligations of the supplemental fund; and

(2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from the investments shall be deposited in the supplemental fund.

(e) As an alternative to the investment provided for in subsection (d), the budget agency may invest or cause to be invested all or a part of the supplemental fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with one (1) or more trust agreements or indentures. A trust agreement or indenture may permit disbursements by the trustee to the department, the budget agency, a ~~political subdivision~~, a ~~public water system that serves an economically disadvantaged municipality~~, **participant**, the Indiana bond bank, or any other person as provided in the trust agreement or indenture. The state board of finance must approve the form of any trust agreement or indenture before execution.

(f) The cost of administering the supplemental fund may be paid from money in the supplemental fund.

(g) All money accruing to the supplemental fund is appropriated continuously for the purposes specified in this chapter.

(h) Money in the supplemental fund does not revert to the state general fund at the end of a state fiscal year.

SECTION 26. IC 13-18-21-23 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 23. Money in the supplemental fund may be used to do the following:

(1) Provide grants, loans, or other financial assistance to or for the benefit of ~~political subdivisions or public water systems that serve economically disadvantaged municipalities~~ **participants** for the planning, designing, acquisition, construction, renovation, improvement, or expansion of ~~drinking water treatment systems and public water supply systems~~ and other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

(2) **Provide grants, loans, or other financial assistance to or for the benefit of political subdivisions for the planning, designing, acquisition, construction, renovation, improvement, or expansion of wastewater or stormwater collection and treatment systems and other activities necessary or convenient to complete these tasks, whether or not those other activities are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.**

(3) Pay the cost of administering the supplemental fund and the supplemental program.

~~(3)~~ (4) Conduct all other activities that are permitted by the federal Clean Water Act or the federal Safe Drinking Water Act.

SECTION 27. IC 13-18-21-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 24. ~~(a)~~ The budget agency shall develop a ~~supplemental priority ranking system criteria~~ to recommend grants, loans, or other financial assistance from the supplemental fund.

~~(b)~~ The supplemental priority ranking system shall be designed to establish funding for each category of projects consistent with the environmental, public health, and financial objectives of the state:

~~(c)~~ The:

(1) budget agency shall consult with the department in establishing; and

(2) budget committee shall review

the supplemental priority ranking system.

SECTION 28. IC 13-18-21-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 25. (a) The budget agency may make grants or loans or provide other financial assistance from the supplemental fund for the benefit of a ~~political subdivision or public water system that serves an economically disadvantaged municipality~~ **participant** under the following conditions:



- (1) A grant, loan, or other financial assistance ~~must~~ **may** be used:
- (A) for planning, designing, acquiring, constructing, renovating, improving, or expanding ~~drinking water treatment systems or public water supply~~ **drinking water treatment systems or public water supply** systems, and other activities necessary or convenient to complete these tasks;
  - (B) to:
    - (i) establish reserves or sinking funds; or
    - (ii) provide interest subsidies;
  - (C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or
  - (D) to pay the following:
    - (i) Consultant, advisory, and legal fees.
    - (ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.
- (2) The budget agency must establish the terms and conditions that the budget agency considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.

**(b) In addition to its powers under subsection (a), the budget agency may also make grants or loans or provide other financial assistance from the supplemental fund to or for the benefit of a political subdivision under the following conditions:**

- (1) A grant, loan, or other financial assistance **may** be used:
- (A) for planning, designing, acquiring, constructing, renovating, improving, or expanding wastewater or stormwater collection and treatment systems, and other activities necessary or convenient to complete these tasks;
  - (B) to:
    - (i) establish reserves or sinking funds; or
    - (ii) provide interest subsidies;
  - (C) to pay financing charges, including interest on the loan during construction and for a reasonable period after the completion of construction; or
  - (D) to pay the following:
    - (i) Consultant, advisory, and legal fees.
    - (ii) Other costs or expenses necessary or incident to the grant, loan, or other financial assistance or the administration of the supplemental fund or the supplemental program.



**(2) The budget agency must establish the terms and conditions that the budget agency considers necessary or convenient to make grants or loans or provide other financial assistance under this chapter.**

SECTION 29. IC 13-18-21-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 26. (a) A grant, loan, or other financial assistance from the supplemental fund must be accompanied by all papers and opinions required by the budget agency.

(b) Unless otherwise provided by rule, a loan or other financial assistance must be accompanied by the following:

~~(1) An approving opinion of nationally recognized bond counsel.~~

~~(2) (1) A certification and guarantee of signatures.~~

~~(3) (2) A certification that, as of the date of the loan or other financial assistance, no litigation is pending challenging the validity of or entry into:~~

~~(A) the grant, loan, or other financial assistance; or~~

~~(B) any security for the loan or other financial assistance.~~

**(c) The budget agency may require an approving opinion of nationally recognized bond counsel.**

SECTION 30. IC 13-18-21-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 27. A ~~political subdivision or public water system~~ **participant** receiving a grant, loan, or other financial assistance from the supplemental fund shall enter into a financial assistance agreement. A financial assistance agreement under this section is a valid, binding, and enforceable agreement of the ~~political subdivision or public water system~~ **participant**.

SECTION 31. IC 13-18-21-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 28. (a) The budget agency may sell loans or evidences of other financial assistance and other obligations evidencing the loans or other financial assistance from the supplemental fund:

(1) periodically;

(2) at any price; and

(3) on terms acceptable to the budget agency.

(b) Proceeds of sales under this section shall be deposited in the supplemental fund, **the wastewater revolving loan fund**, or the fund at the direction of the budget director.

SECTION 32. IC 13-18-21-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 29. (a) The budget agency may pledge:

(1) loans or evidences of other financial assistance; and

(2) other obligations evidencing the loans or other financial



assistance;  
 from the supplemental fund to secure other loans or financial assistance from the fund, **the wastewater revolving loan fund**, or the supplemental fund for the benefit of ~~political subdivisions or public water systems that serve economically disadvantaged municipalities.~~ **participants.**

(b) The terms of a pledge under this section must be acceptable to the budget agency.

(c) Notwithstanding any other law, a pledge of property made by the budget agency under this section is binding from the time the pledge is made. Revenues, other money, or other property pledged and thereafter received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

- (1) the department;
- (2) the budget agency; or
- (3) the supplemental fund;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the budget agency.

(e) Action taken to:

- (1) enforce a pledge under this section; and
- (2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section does not create a liability or indebtedness of the state.

SECTION 33. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 1999]: IC 13-18-13-21; IC 13-18-13-22; IC 13-18-13-23; IC 13-18-13-24; IC 13-18-13-25; IC 13-18-13-26; IC 13-18-13-27; IC 13-18-13-28; IC 13-18-13-29.

SECTION 34. [EFFECTIVE JULY 1, 1999] (a) **On July 1, 1999, the treasurer of state shall transfer the balance remaining in the supplemental wastewater assistance fund on June 30, 1999, to the supplemental drinking water and wastewater assistance fund established by IC 13-18-21-22, as amended by this act.**

(b) **On July 1, 1999, all liabilities of the supplemental wastewater assistance fund become liabilities of the supplemental drinking water and wastewater assistance fund established by IC 13-18-21-22, as amended by this act.**

